

MEMORANDUM OF LAW

DATE: September 24, 1993

TO: Jack Fishkin, Assistant City Clerk

FROM: City Attorney

SUBJECT: City Council Meeting Invocations

This is in response to your memorandum dated August 24, 1993. In that memo you ask:

1. What efforts must the Office of the City Clerk make to determine whether a clergy member is "legitimate" or "bona fide?"
2. Does merely inviting members of certain religious organizations constitutes using City offices as a forum for spreading anti-Jewish (or other religions) belief? If so, should the City Clerk avoid inviting such organizations?

The City Attorney analyzed the legal issues surrounding legislative invocation in a Memorandum of Law addressed to the City Clerk on July 27, 1992. In lieu of repeating the information in that memorandum, I attached a copy here. The law has not changed since that memorandum was written. Essentially, under its lawful authority, the City Council has provided for legislative invocations (San Diego Municipal Code ("SDMC") section 22.0701, Rule 3). The City Council may under the federal or state constitutions require that invocations be nondenominational, but to date the City Council has not chosen to exercise that authority.

In answer to your first question, the law on legislative invocations does not require or permit the City Council or City Clerk to probe into whether a clergy member or, for that matter, a particular religion, is "legitimate" or "bona fide." If the City Council chooses to adopt a policy, the persons invited to speak may be asked to make their remarks "nondenominational." As stated above, the Council to date has not articulated any policy requiring "nondenominational" invocations.

The answer to the first part of your second question is "no." In answer to the second part of your question, if a person

has been invited to present the invocation and then uses the opportunity to proselytize, then the City Clerk could probably not invite that person back. The law does not permit the City Council or City Clerk, however, to refuse to invite the organization whom the person represents ever again from presenting the invocation.

If you have any further questions, please give me a call.

JOHN W. WITT, City Attorney

By

Cristie C. McGuire

Deputy City Attorney

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Attachment

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